

50. *JH*

A Briefe
R E S O L U T I O N,
Of that Grand
CASE of CONSCIENCE

(Necessary for these Times)

CONCERNING
The Allegiance due to a PRINCE
Ejected by force out of His
KINGDOME,

AND
How farre the SUBJECTS may comply
with a present Usurped Power.

L O N D O N,
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*A brief Resolution, of that grand Case of
Conscience, concerning the Allegiance
due to a PRINCE ejected by force
out of his Kingdome.*

Question.

DOth not Victory give a right to
the Conquerour?

And doth it not thence follow,
that he which is ejected out of his King-
dome, by force of a prevailing Partie,
hath thereby lost his right of *Allegiance*
from his former Subjects?

And is not then that right devolved
on the *Conquerour*, by the force of these
words of *God*, when he saith, *Dan. 4. 17.*
& 25. 32. that he ruleth in the *Kingdome*
of men, and giveth it to whomsoever he
will, and setteth up over it the basest of men?
And of *Ecclus. 10. 8.* because of unrighte-
ousnesse

ousnesse---the Kingdome is translated from one people to another ?

And when he doth so, are not all Members of such a Kingdome obliged (as the *Israelites* in their deportation to *Babylon*) to yeild obedience to the Conquerour ?

Answer.

This Objection consists of divers Branches, and I shall answer it by degrees :

1. That all Victory doth not give a right to the Conquerour, but onely when the Warre being founded on a just Cause, that just Cause hath thus been blest with Victory. And when that is, depends wholly on the stating of that Question concerning the Lawfulnessse of any Warre.

Now because there never can be just Warre on the *Subjects* part against their *Soveraigne* because they want the warrant of Supream Authority, without which (though the Cause be never so just, and the End never so good) all the blood that is shed, is no better than Murther; Therefore though the *Subjects* in such a Warre should prevaile against their *Soveraigne*, yet neither is He hereby diverted of His just Right, nor they inverted therewith, because the Warre was wholly unjust on their part for want of Authority.

2. There-

2. Therefore if that Party whose Cause is unjust, shall yet prevaile and prove successfull, then in answer to the Branch, I say, that there is no Right acquired by this: For, tis a mistake to thinke that this is the meaning of *Fus Victoria, the Right of Victory*, which the *Civill Lawyers* speake of, as if God had by this lottery testified his Judgment of the Right, and pronounced that Just now, which was Unjust before; or that the present Forces is alwaies to be looked on as the *Higher Powers*, and allowed the Obedience required by the *Apostle*, as due to them, w^{ch} is the mistaking of *Divinis, Power*, for *terris, Authority*, and agrees with that speech of the *Atheists, Wis. 2. Our strength is the Law of Justice, and that which is feeble is found to be nothing worth.* And we know tis Gods ordinary dispensation now under the *Gospel* to permit Violence to oppress the Godly, which sure is no Argument, that those prosperous Ungodly have the sole Right to the Possessions of the World, or that the oppressed Godly Man shall no longer be thought to be oppressed, when the prosperous Oppressour is arrived at the height of his oppression.

3. The Question then being removed from the title of *force* (which being it self unjust, cannot conferre Right on any) It must next be considered what *dedition* (that is, yeilding or resigning up of ones Right) can doe, That will be of two sorts, either of the *Prince*, or the *People*; and againe, either *Voluntary*, or *Involuntary*.

A *Voluntary dedition, or yeilding up*, of the rightful Possessor, if he be a private Man, transfers a Right. But a *Prince* being a publique Person, and having an obligation of protection to His Subjects, cannot without some

breach of that obligation abdicate his *Kingdome*, nor consequently voluntarily yeild up His Power,¹ or if He doe, He cannot transferre the Right to any (save to the lawful Heire or Successour) without the tacit or expresse consent of the People also.

But in case they consent also, then will this Right (*in Kingdomes Elective*) be transferred by the joynt yeilding of the King and His Subjects. As for Kingdomes Hereditary, the Subjects consent is not necessary, but the Kings yeilding up of his right alone, is sufficient to transferre the right to the next Heire. Neither can the joynt act both of King and People transferre this right from the next Heire to any other. The Kings yeilding is an absolution of the Subjects from the allegiance formerly due to Him by them, and so makes it lawfull for them to yeild the same to another, and when 'tis thus free and lawfull to them, the intervention of their owne act also becomes obligation on them to submit to that Person so yeilded to. And when this is done (*in Kingdomes Elective*) and withall when no Heire is left to make claime, or the claime relinquisht by the right Heire, in *Kingdomes Hereditary*, then is the Kingdome removed and given by God (who now rules not immediately among us, as he did in the time of the *Theocracy* among the *Jewes*, but is then said to remove a Kingdome when his providence so disposes, that by the Lawes and right among Men it is removed) to another.

But till this be done, *i. e.* till *He*, or *They* in whom the right both of *present possession*, and *future claime by inheritance*, is truly verted do voluntarily yeild up that right, and when that is done, till they which by their yeilding are freed from their former bands doe now by their owne act enter into new, what force soever there be, and how succes-

successfull soever the force, there is not thereby any such Victory compleated as shall be able to conferre Right on the Victor, nor remove it from him that hath, and still protests his Right though as yet he be not strong enough to vindicate it.

4. But then in the next place, if there be a dedition or yeilding up by the King, and that dedition involuntary, that is, such as nothing but the present successe of the force hath inclined him to, then certainly doth it not so divert him of his right, as that it shall be unlawfull for him, when he can to make claime and recover it againe. As he that by a violent Invader is made to sweare to pay such a summe of money; it is acknowledged lawfull for him to implead that Thiefe, and recover from him, what in performance of that involuntary Oath he hath paid him.

In this case the difficulty is, what condition those *Subjects* are left in, for that time betwixt the involuntary *dedition* of the *King*, and his renewing his *claime*, and the solution must be, that a proportion be observed between the Act of the King, and the Subjects consequent Act: The Act of the King is but a *present dedition*, and doth not oblige Him never to make any after-claime againe; and consequently, this gives not any such absolution to the Subjects, as that they may doe any thing which shall prejudice that future claime, or blemish his *royalty*, such as are taking new Oathes of *Allegiance*, *abjurations* of Him & his Issue, *Engagements* to the usurped power, &c. All that it can doe, is to make it free for them to submit to such other things of an inferiour nature (which includes not any such blemishmēt of the *rights* of the lawfull Prince) provided that they acknowledge not the lawfulnessse.

fulnesse of the present usurped Power, nor act as Ministers or Instruments thereof. And this is the utmost that seems possible to determine in this matter.

5. As for that power which *tract of time* may be thought to have in this businesse, that is not considerable where the claime is Continued (for that argues the Dedition involuntary) and much lesse when there is no Dedition at all, for there twas before supposed that force cannot conferre right.

6. And if by this stating of the Case, it follow that the lot of the faithfull Subjects must be very unhappy at this time, and that great disorder must necessarily continue in such a broken Kingdome, as long as the Contention between the violent *Usurper* and the just *Owner* thus remains undecided. I answer, that this is oft the lot of the most pious Men under the Gospel, *who have their good things here mixt with tribulations*, and must content themselves in the solaces of a good conscience, in performing those duties which cost them dearest, and expect their full payment of joyes without hardships to be payd them in another world.

The End.